

## § 410.78

## 42 CFR Ch. IV (10–1–04 Edition)

payment for a service, the nurse-midwife must make the appropriate refund to the beneficiary.

(3) A nurse-midwife may provide services that he or she is legally authorized to perform under State law as a nurse-midwife, if the services would otherwise be covered by the Medicare program when furnished by a physician or incident to a physicians' professional services.

[63 FR 58909, Nov. 2, 1998]

### § 410.78 Telehealth services.

(a) *Definitions.* For the purposes of this section the following definitions apply:

(1) *Asynchronous store and forward technologies* means the transmission of a patient's medical information from an originating site to the physician or practitioner at the distant site. The physician or practitioner at the distant site can review the medical case without the patient being present. An asynchronous telecommunications system in single media format does not include telephone calls, images transmitted via facsimile machines and text messages without visualization of the patient (electronic mail). Photographs visualized by a telecommunications system must be specific to the patient's medical condition and adequate for furnishing or confirming a diagnosis and or treatment plan. Dermatological photographs, for example, a photograph of a skin lesion, may be considered to meet the requirement of a single media format under this provision.

(2) *Distant site* means the site at which the physician or practitioner delivering the service is located at the time the service is provided via a telecommunications system.

(3) *Interactive telecommunications system* means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunications system.

(4) *Originating site* means, for purposes of a consultation, office or other outpatient visit, individual psycho-

therapy, or pharmacologic management via an interactive telecommunications system, the location of an eligible Medicare beneficiary at the time the service being furnished via a telecommunications system occurs. For asynchronous store and forward telecommunications technologies, the only originating sites are Federal telemedicine demonstration programs conducted in Alaska or Hawaii.

(b) *General rule.* Medicare Part B pays for office and other outpatient visits, professional consultation, psychiatric diagnostic interview examination, individual psychotherapy, and pharmacologic management furnished by an interactive telecommunications system if the following conditions are met:

(1) The physician or practitioner at the distant site must be licensed to furnish the service under State law. The physician or practitioner at the distant site who is licensed under State law to furnish a covered telehealth service described in this section may bill, and receive payment for, the service when it is delivered via a telecommunications system.

(2) The practitioner at the distant site is one of the following:

(i) A physician as described in § 410.20.

(ii) A physician assistant as described in § 410.74.

(iii) A nurse practitioner as described in § 410.75.

(iv) A clinical nurse specialist as described in § 410.76.

(v) A nurse-midwife as described in § 410.77.

(vi) A clinical psychologist as described in § 410.71.

(vii) A clinical social worker as described in § 410.73.

(3) The services are furnished to a beneficiary at an originating site, which is one of the following:

(i) The office of a physician or practitioner.

(ii) A critical access hospital (as described in section 1861(mm)(1) of the Act).

(iii) A rural health clinic (as described in section 1861(aa)(2) of the Act).

(iv) A Federally qualified health center (as defined in section 1861(aa)(4) of the Act).

(v) A hospital (as defined in section 1861(e) of the Act).

(4) Originating sites must be located in either a rural health professional shortage area as defined under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) or in a county that is not included in a Metropolitan Statistical Area as defined in section 1886(d)(2)(D) of the Act. Entities participating in a Federal telemedicine demonstration project that have been approved by, or receive funding from, the Secretary as of December 31, 2000 qualify as an eligible originating site regardless of geographic location.

(5) The medical examination of the patient is under the control of the physician or practitioner at the distant site.

(c) *Telepresenter not required.* A telepresenter is not required as a condition of payment unless a telepresenter is medically necessary as determined by the physician or practitioner at the distant site.

(d) *Exception to the interactive telecommunications system requirement.* For Federal telemedicine demonstration programs conducted in Alaska or Hawaii only, Medicare payment is permitted for telehealth when asynchronous store and forward technologies, in single or multimedia formats, are used as a substitute for an interactive telecommunications system.

(e) *Limitation.* A clinical psychologist and a clinical social worker may bill and receive payment for individual psychotherapy via a telecommunications system, but may not seek payment for medical evaluation and management services.

(f) *Process for adding or deleting services.* Changes to the list of Medicare telehealth services are made through the annual physician fee schedule rule-making process.

[66 FR 55330, Nov. 1, 2001, as amended at 67 FR 80041, Dec. 31, 2002]

### Subpart C—Home Health Services Under SMI

#### § 410.80 Applicable rules.

Home health services furnished under Medicare Part B are subject to the rules set forth in subpart E of part 409 of this chapter.

### Subpart D—Comprehensive Outpatient Rehabilitation Facility (CORF) Services

#### § 410.100 Included services.

Subject to the conditions and limitations set forth in §§ 410.102 and 410.105, CORF services means the following services furnished to an outpatient of the CORF by personnel that meet the qualifications set forth in § 485.70 of this chapter.

(a) *Physicians' services.* The following services of the facility physician constitute CORF services: consultation with and medical supervision of non-physician staff, establishment and review of the plan of treatment, and other medical and facility administration activities. Those services are reimbursed on a reasonable cost basis under part 413 of this chapter. Diagnostic and therapeutic services furnished to an individual patient are not CORF physician's services. If covered, payment for these services would be made by the carrier on a reasonable charge basis subject to the provisions of subpart E of part 405 of this chapter.

(b) *Physical therapy services.* (1) These services include—

(i) Testing and measurement of the function or dysfunction of the neuromuscular, musculoskeletal, cardiovascular and respiratory systems; and.

(ii) Assessment and treatment related to dysfunction caused by illness or injury, and aimed at preventing or reducing disability or pain and restoring lost function.

(2) The establishment of a maintenance therapy program for an individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* These services include—